SEA 1 - 2004

SEA 1 (Borst, **Hume**, Crawford, Espich) was a significant omnibus property tax bill that, in a most unusual manner, passed the General Assembly and was signed into law before the year 2004 had begun. The impetus for beginning deliberations in November 2003 for what was commonly referred to as the "mini-session" came from complications of the ongoing property tax reassessment and public reaction to higher assessments and tax bills.

Throughout much of 2003, a great deal of media attention was given to the most dramatic impacts of reassessment in certain areas of the state. In response, House Ways & Means Committee Chairman Bill Crawford would later lead a series of public fora around the state on property taxes. However, Senate Democrats had already begun the policy discussion on July 18th, 2003 by putting forward a set of proposals that would target those who were hardest hit, especially senior citizens, working families, farmers, and those living in older homes.

"We took steps [during tax restructuring] to reduce everybody's taxes," stated Senator Simpson. "As a result, we saved property taxpayers over a billion dollars. Now it is time for us to finish what we started by protecting those Hoosiers who have been particularly hard hit by this court-ordered reassessment."

The Caucus endorsed four suggestions for immediate tax relief that addressed both the regressivity of the present system and the effects of the court-ordered 2002 market value-based reassessment:

(1) A deferral program, which would essentially freeze tax bills for those aged 65 and over at the level paid in 2002;

(2) A circuit-breaker income tax credit for working families and seniors that would refund a portion of property taxes paid;

(3) A state-paid Farmstead Credit to reduce dramatic tax increases on agricultural land for family farmers; and

(4) Targeted tax breaks for neighborhood revitalization and homeowners' investments in historic properties.

"Many of these proposals have been offered by this caucus in the past," observed Senator Hume. "Because of the reassessment, we believe it is time to put them on the table again. We offer them with the hope that they will stimulate healthy discussion and debate among citizens and legislators as to how we should address the problems caused by reassessment."

By Organization Day, two of the largest population centers where actual 2003 property tax liabilities were known were Marion and Vanderburgh counties. However, there was pressure from all areas of the state for legislators to quickly begin working on some form of tax relief or reform of the assessment system. There was no real consensus from the Governor and the leadership of the House and Senate on how much could be accomplished before the regularly scheduled start of the 2004 session, but there was agreement on smaller issues, such as extending the deadline for the Homestead Credit and certain deductions to the middle of December.

The General Assembly convened on November 18th, 2003, and SB 1 was introduced by Senator Larry Borst. The measure differed from HB 1001 in that the House's version focused on immediate tax relief (in the form of increased or new deductions) in 2004. Senate Republican leadership opposed any significant changes, claiming that not enough information was known about how reassessment was proceeding and that new or increased deductions would shift too much of the tax burden back to businesses. The Senate version focused more on restricting local government levies and technical amendments to the property assessment system.

As the bill moved from the Finance Committee to the Senate floor, many Senate Democrats felt that SB 1 would not truly provide tax relief and cautioned against raising the expectations of Hoosier taxpayers. Others also expressed deep concern over the erosion of fiscal flexibility for local governments.

Members of the caucus attempted to improve the bill on second reading by adding elements from the July policy suggestions and other ideas; however, all but one of these motions were rejected along near-party line votes. The only successful amendment was Senator Simpson's proposal to allow homeowners whose 2003 property taxes are delayed until 2004 to claim up to $2,500 twice (once each for both years) for the 2004 tax year.

The rejected amendments are summarized below:

- Amendment #5 (Simpson): Challenging the majority party to choose action over rhetoric with respect to property tax reform, Senator Simpson presented an amendment that would have eliminated property tax support for all school funding by CY 2006. Under the language offered, only existing debt would continue to be paid for by local levies. The General Assembly would have then been charged with finding replacement revenue over the next two years. Among Democrats, only Senator Glenn Howard opposed the motion, as it was otherwise a party-line vote (RC 5, 17-33).

- Amendment #6 (Hume): The Farmstead Credit was a core component of the Senate Democratic Caucus' summer policy agenda, and this motion would have established such a program. Up to $70 million in credits would have been paid annually by the state to reduce family farmers' taxes on agricultural land. The funds would have been freed up by limiting the amount of state-paid tax replacement on residential property to $2,000 per homestead. The motion was defeated nearly along party lines (RC 6, 17-33).

- Amendment #22 (Simpson): Senator Simpson offered a motion to create a tax deferral program for low-income senior citizens. Under the amendment, eligible homeowners could have had their property taxes frozen at 2002 levels, with any increases being paid when the home was sold or the estate was settled. Again, a lone Democrat joined with Republicans in defeating this motion 17-33 (RC 7).

- Amendment #8 (Broden): This amendment would have created a new deduction for older homes. For homes at least 50 years old but less than 100, the value would have been $4,500. For homes 100 years old or more, the deduction's value would have been $9,000. Senator Becky Skillman (R-Bedford) voted with the entire Democratic Caucus, but the motion was defeated (RC 8, 19-31).

- Amendment #25 (Lanane): Essentially the same as SEA 296 that would be passed during the "regular" session, this amendment would have increased by 108% the value of property tax deductions for elderly Hoosiers, the blind or disabled, disabled veterans, World War I veterans and surviving spouses, residential property rehabilitation, historic property rehabilitation, and residentially distressed area property rehabilitation. However, had this amendment been adopted as part of SEA 1, the additional relief would have been effective for taxes paid in CY 2004, not CY 2005. (RC 9, 18-32)

The bill was called down for third reading on November 25th and was approved by a vote of 43-6 (3rd Rdg. RC 11). All six members opposing SEA 1 were Democrats. A summary of the final version follows:

<u>Helping Taxpayers</u>

***Rental Property Owners**:* The bill helps owners of rental properties by requiring assessors beginning CY 2006 to use the least of three methods of valuation. These three methods are:

(1) Cost approach;
(2) Sales comparison approach; and
(3) Income capitalization approach (the bill also provides that the gross rent multiplier method, in place of the income capitalization method, is the preferred method for valuing mobile homes and rentals that have fewer than 5 units).

***State Income Tax Deduction**:* Senate Democrats successfully added an amendment that guaranteed that those taxpayers that did not pay 2003 property taxes in calendar year 2003 due to billing delays will still be able to take the $2,500 maximum deduction twice for the 2004 taxable year (once for 2003 property taxes and once for 2004 property taxes).

***Installment Payments and Waiver of Penalties**:* SEA 1 allows counties to ask the state to permit installment payments for taxes payable in 2004 or thereafter or to waive late payment penalties.

***Validation of Actions Taken by the DLGF to Help Taxpayers**:* The bill legalizes and validates any action taken by DLGF before January 1st, 2004, to extend deadlines for filing appeals or allow installments payments or waivers of late payment penalties.

***Appeal Process**:* The bill streamlines the appeal process by eliminating the requirement that a taxpayer fill out a state-prescribed form to obtain a preliminary hearing with the township assessor. Under SEA 1, a taxpayer need only make a written request.

***Automatic Refund for a Successful Appeal**:* The bill eliminates the requirement that a taxpayer file a claim for a refund after a successful assessment appeal.

***Deduction/Credit Filing Extension**:* SEA 1 also permits an individual who was eligible for but did not apply for a Homestead Credit or certain other property tax deductions for taxes payable in 2004 to apply before December 15, 2003 (HEA 1001 clarifies that applications on December 15th were also valid). The deductions affected include mortgage deductions, low-income elderly deductions, blind and disabled deductions, and veterans' deductions.

***Notice of General Assembly Action**:* The bill requires, for property taxes payable on homesteads in 2004, DLGF to provide each county treasurer with the amount by which the property taxes in the county were reduced by actions of the General Assembly to mitigate the effects of the general reassessment. It requires the treasurer to include the statement with each tax bill.

Improving the Assessment System

***DLGF Takeover of Reassessment**:* SEA 1 authorizes DLGF to take over the 2003 general reassessment process (including the equalization study) in a county if the equalization study was not submitted to the Department before October 20, 2003, or if the DLGF determines that the county's reassessment is inaccurate.

***Requires Better Qualified Assessors**:* The bill provides that county, township, and trustee assessors must meet certain certification requirements or they must forfeit their offices. The standards are:

(1) Achievement of Level 1 certification within one year of taking office; and
(2) Level 2 certification within two years of taking office.

***Assessment Software**:* SEA 1 requires DLGF to study the feasibility of creating uniform and common computer software programs for property tax assessment purposes.

***Electronic Submittal of Sales Disclosure Forms**:* The bill provides that after December 31, 2004, the sales disclosure forms and data forwarded by local assessors to DLGF and LSA must be provided in electronic format.

***Special Masters**:* This bill provides for special masters to hear appeals to the IBTR.

***Provisional Property Tax Statements**:* SEA 1 allows counties to issue provisional tax statements if the abstract is not delivered in a timely manner. The DLGF is authorized to waive the provisional tax statement requirement under certain circumstances.

Limiting Property Tax Increases

***Automatically Adjusts Maximum Tax Rates**:* SEA 1 requires DLGF to adjust rate-controlled levies after reassessments to prevent one-time windfalls.

***Eliminates "Banked" Maximum Levies**:* The bill eliminates the "banking" of unused levies for civil taxing units, Family and Children levies, and Children's Psychiatric Residential Treatment Services levies.

Eliminates "Buffers" or Adjustments to Certified AVs*:* Local units will no longer be able to set aside a portion of AV know as a "buffer" to offset the impact of successful appeals or non-payment. Instead, units will handle lost tax revenue by interfund borrowing or using a shortfall appeal levy in the following tax year.

Elimination of Appeal for Alternate Use of CAGIT PTRC*:* The bill eliminates the ability for local units to reallocate CAGIT property tax replacement credits for a purpose other than property tax relief.

Takes Away Locals' Ability to Spend up to 102% of Tax Collections*:* The bill provides for deposit in a unit's Levy Excess Fund of property tax collections in excess of 100% (instead of 102%) of the unit's levy.

Approval of Appointed Library Board Levies*:* SEA 1 adds library districts to the entities subject to review by the governing fiscal body for levy increases above 5%.

"Tightens Up" the Petition and Remonstrance Procedure*:* The bill adds numerous restrictions to the petition and remonstrance procedure that make it more difficult for petitioners to advocate. The bill provides that the petition requires the signatures of the lesser of 100 or 5% of the property owners in the political subdivision (instead of 250 or 10% as required under the previous law). It also prohibits a political subdivision (including a school corporation) from taking certain actions to promote a position on a petition for or remonstrance against a bond issue or lease. It further prohibits a person from soliciting or collecting signatures for a petition or remonstrance on property owned by the political subdivision.

Miscellaneous

Property Tax Study*:* SEA 1 requires the Commission on State Tax and Financing to study elimination of property taxes and to evaluate alternative sources of revenue.

Helping Cash-Strapped Local Units*:* The bill authorizes investment of state funds, including the Common School Fund in certain obligations of the Indiana Bond Bank (IBB). This language allowed units that had loans due to the IBB on December 31st, 2003 to "roll-over" those loans.